

AMENDED IN ASSEMBLY JULY 9, 2003

AMENDED IN ASSEMBLY JUNE 26, 2003

AMENDED IN SENATE JUNE 3, 2003

AMENDED IN SENATE MAY 19, 2003

**SENATE BILL**

**No. 656**

**Introduced by Senator Sher**

~~(Coauthor: Assembly Member Chan)~~

*(Coauthors: Assembly Members Chan and Lieber)*

February 21, 2003

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An act to add Section 39614 to the Health and Safety Code, relating to air quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 656, as amended, Sher. Air quality: particulate matter.

(1) Existing law designates the State Air Resources Board as the state agency charged with coordinating efforts to attain and maintain ambient air quality standards. Existing law designates the state board as the state agency with the primary responsibility for the control of vehicular air pollution, and air pollution control districts and air quality management districts with the primary responsibility for the control of air pollution from all sources other than vehicular sources. Existing law requires district plans for attaining state ambient air quality standards to assess the cost-effectiveness of available and proposed emission control measures.

This bill would require the state board, not later than ~~July 31, 2004~~ *January 1, 2005, and in consultation with the districts, to identify develop and adopt at a public meeting* a list of all readily available,

feasible, and cost-effective, *as defined, proposed* control measures, based on rules, regulations, and programs existing as of January 1, 2004, that could be employed by the state board and the districts to reduce emissions of ~~PM 10 and PM 2.5 and PM 10, as defined,~~ from new and existing stationary, *mobile*, and area sources. ~~The bill would also require the state board, together with the districts, to identify a list of all readily available, feasible, and cost-effective measures that could be employed by the state board and local air districts to reduce PM 10 and PM 2.5 from diesel-powered engines in stationary and mobile applications.~~ The bill would also require the state board and the districts ~~each district~~ to adopt ~~an implementation schedules~~ *schedule, as defined,* for measures on ~~those lists that list.~~ The bill would require the state board and the districts, in implementing those measures, to ~~endeavor adopt and implement all readily available, technologically feasible, and cost-effective control measures on the list to reduce particulate emissions from stationary, mobile, and area sources, and diesel-powered vehicles and equipment, to the maximum extent feasible.~~ The bill would require the state board and each district to adopt ~~all available, feasible, and cost-effective those~~ measures by the earliest practicable date to reduce health risks from particulate air pollution and to achieve state ambient air standards for particulate matter. ~~The bill would require the determination of whether a measure is cost-effective to be made based upon the process utilized by districts in preparing attainment plans. By imposing~~ *The bill would authorize a district to exempt a stationary source from a control measure if the district determines the source is acting to achieve those emission reductions through an approved incentive or emission reduction programs. The* additional duties ~~on for districts, this required by the bill~~ would impose a state-mandated local program.

(2) Existing law makes a violation of any rule, regulation, permit or order of the state board or a district a misdemeanor.

By expanding the scope of a crime, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) The body of scientific evidence demonstrating health
- 4 effects related to particulate matter exposure has grown
- 5 tremendously over the past 10 years, and presents a compelling
- 6 public health case for reducing emissions and exposures.
- 7 (2) Both coarse and fine particulate matter (PM 10 and PM 2.5,
- 8 respectively) are linked in scientific literature to a range of serious
- 9 health impacts, including premature mortality, acute and chronic
- 10 bronchitis, asthma attacks and emergency room visits, upper
- 11 respiratory illnesses, and days with work loss.
- 12 (3) Exposure to particulate pollution is particularly dangerous
- 13 for sensitive groups including, but not limited to, the elderly,
- 14 individuals with asthma and other lung illnesses, infants, and
- 15 children.
- 16 (4) Recent scientific literature on particulate matter
- 17 demonstrates serious health impacts in infants and children
- 18 including, but not limited to, mortality, reduced birth weight,
- 19 premature birth, asthma exacerbation, and acute respiratory
- 20 infections.
- 21 (5) The state board recently reviewed the particulate matter air
- 22 quality standard pursuant to the Children's Environmental Health
- 23 Protection Act (Chapter 731 of the Statutes of 1999) and based on
- 24 that review, tightened the existing PM 10 annual standard and
- 25 added a stringent new PM 2.5 annual standard.
- 26 (6) The state board has recently estimated that attaining the
- 27 state ambient air quality standards for particulate matter would
- 28 prevent 6,500 cases of premature mortality per year, 3,000
- 29 hospitalizations per year for cardiovascular and respiratory

1 illnesses, including, but not limited to, chronic obstructive  
2 pulmonary disease (COPD), and pneumonia, 340,000 asthma  
3 attacks and 32,000 cases of bronchitis in children, as well as 2.8  
4 million lost work days.

5 (7) The dramatic increase in statewide asthma rates among the  
6 general population, especially among children, provide a  
7 compelling reason to reduce pollutants including, but not limited  
8 to, particulate matter that have been proven to trigger asthma  
9 attacks and worsen asthma symptoms.

10 (8) The state board has adopted a statewide risk reduction plan  
11 for reducing diesel particulate matter emissions by 2010, however  
12 it is necessary to ensure the prompt implementation of that plan  
13 and its particulate reduction goals.

14 (9) The vast majority of the state is designated a nonattainment  
15 area for the state ambient air quality standards for particulate  
16 matter and is subject to the serious and wide-ranging health  
17 impacts described in this section.

18 (10) One component of particulate matter pollution, diesel  
19 particulate matter, has been identified as a toxic air contaminant by  
20 the state board based upon the cancer risk posed by public  
21 exposure to this pollutant. In order to be effective, control  
22 measures to reduce particulate pollution need to control not only  
23 diesel particulate and other directly emitted PM 10 and PM 2.5, but  
24 also control precursors that contribute to formation of particulate  
25 matter, including, but not limited to, oxides of nitrogen, sulfur  
26 oxide, reactive organic gases and ammonia.

27 (11) The health impacts of particulate matter can be even more  
28 serious than other pollutants already addressed through state and  
29 local air quality planning efforts including, but not limited to,  
30 ozone, and the cost of particulate controls may be higher than  
31 controls for ozone and other criteria air pollutants;

32 (12) Data from the existing air monitoring network, emission  
33 inventory, and other scientific studies can be used to identify  
34 sources of particulate pollution and prioritize control measures for  
35 that pollution and its precursors.

36 (13) The United States Environmental Protection Agency has  
37 recently begun the process to implement the federal fine  
38 particulate standard and to designate area attainment status.  
39 However, attainment of the federal standards is at least a decade



in the future and the federal standard is less stringent and protective of public health than the state particulate standard.

(b) The Legislature therefore declares that it is essential that the state board and the districts take all readily available, feasible, and cost-effective measures to reduce the public's exposure to particulate matter emissions to the maximum extent feasible.

SEC. 2. Section 39614 is added to the Health and Safety Code, to read:

~~39614. (a) Not later than July 31, 2004, the state board shall do both of the following:~~

~~(1) Identify~~

39614. (a) For the purposes of this section, the following terms have the following meanings:

(1) "Cost-effective" or "cost-effectiveness" means either of the following, as applicable:

(A) For the state board, a determination using the standards, formulas, and criteria used by the state board to calculate cost-effectiveness for other regulations.

(B) For a district, a determination using standards and process described in Section 40922.

(2) "Implementation schedule" means a schedule that specifies dates for final adoption, implementation, and sequencing of control measures pursuant to this section.

(3) "PM 2.5" means emissions of particulate matter into the air of 2.5 microns or less.

(4) "PM 10" means emissions of particulate matter into the air of 10 microns or less.

(b) On or before January 1, 2005, the state board, in consultation with the districts, shall develop and adopt at a public meeting a list of all readily available, feasible, and cost-effective proposed control measures, based on rules, regulations, and programs existing as of January 1, 2004, that could be employed by the state board and the districts to reduce emissions of ~~PM 10 and PM 2.5~~ PM 2.5 and PM 10. The list shall include measures to reduce emissions from new and existing stationary, mobile, and area sources. In developing the list, the state board shall take into account information it determines to be appropriate and relevant from emissions inventories, air monitoring data, and other scientific studies, including, but not limited to, information associated with compliance with the federal ambient air standards

1 for particulate matter. The list shall include control measures for  
2 all of the following emission source categories:

3 ~~(A)~~

4 (1) Stationary combustion sources.

5 ~~(B)~~

6 (2) Woodstoves and fireplaces.

7 ~~(C)~~

8 (3) Commercial grilling operations.

9 ~~(D)~~

10 (4) Agricultural burning.

11 ~~(E)~~

12 (5) Construction and grading operations.

13 ~~(2) Together with the districts, identify a list of all readily~~  
14 ~~available, feasible, and cost-effective measures that could be~~  
15 ~~employed by the state board and local air districts to reduce PM-10~~  
16 ~~and PM 2.5 from diesel-powered engines in stationary and mobile~~  
17 ~~applications, including, but not limited to, measures that do any of~~  
18 ~~the following:~~

19 ~~(A) Utilize available federal, state and local funds, including,~~  
20 ~~but not limited to, Congestion Management and Air Quality~~  
21 ~~Improvement funds, to upgrade and replace heavy-duty engines~~  
22 ~~with cleaner alternatives.~~

23 ~~(B) Promote or require local government solicitations that~~  
24 ~~reward utilization of lower-emitting heavy-duty vehicles and~~  
25 ~~equipment.~~

26 ~~(C) Establish heavy-duty vehicle idling restrictions.~~

27 ~~(D) Nothing in this paragraph is intended to alter or affect the~~  
28 ~~authority of the state board or a district over diesel-powered~~  
29 ~~engines established pursuant to this division.~~

30 ~~(b)~~

31 (6) *Diesel-powered engines used in stationary and mobile*  
32 *applications, including, but not limited to, control measures that*  
33 *do any of the following:*

34 (A) *Reduce heavy-duty vehicle idling.*

35 (B) *Require the use of ultra low-sulfur diesel fuel.*

36 (C) *Encourage, and require to the extent authorized by law,*  
37 *fleet turnover or the pull-ahead of new technology.*

38 (D) *Use public funds, including, but not limited to, Congestion*  
39 *Mitigation and Air Quality Improvement Program (CMAQ) funds*

1 *to upgrade, retrofit, and replace heavy-duty engines with less*  
2 *polluting alternatives.*

3 *(E) Promote increased purchase and use by government*  
4 *agencies of low-emission heavy-duty vehicles and equipment.*

5 *(c) Specify in the list adopted pursuant to subdivision (a)*  
6 *whether a proposed control measure is intended to reduce*  
7 *emissions of PM 2.5, PM 10, or both, and whether it is a proposed*  
8 *control measure for adoption by the state board or by a district.*  
9 *The state board and the districts shall adopt and implement only*  
10 *those control measures within their respective jurisdictions.*

11 *(d) (1) Not later than July 31, 2005, after at least one public*  
12 *workshop and a noticed public hearing, the state board shall adopt*  
13 *an implementation schedule for the state measures on the lists list*  
14 *developed pursuant to subdivision (a) and the districts (b) and each*  
15 *district shall adopt an implementation schedule for the local*  
16 *measures on those lists list. The state board and the districts, in*  
17 *implementing those measures, shall —endeavor adopt and*  
18 *implement all readily available, technologically feasible, and*  
19 *cost-effective control measures on the list to reduce particulate*  
20 *emissions from stationary, mobile, and area sources, as well as*  
21 *diesel powered vehicles and equipment, to the maximum extent*  
22 *feasible.*

23 ~~*(e) The state board and each district shall adopt all available,*~~  
24 ~~*feasible, and cost-effective measures by the earliest practicable*~~  
25 ~~*date to reduce health risks from particulate air pollution and to*~~  
26 ~~*achieve state ambient air standards for particulate matter.*~~

27 ~~*(d) For the purposes of this section, the determination of*~~  
28 ~~*whether a measure is “cost effective” shall be made based upon*~~  
29 ~~*the process specified in Section 40922.*~~

30 *(2) In developing an implementation schedule pursuant to this*  
31 *subdivision, the state board and each district shall do all of the*  
32 *following:*

33 *(A) Prioritize adoption and implementation of proposed*  
34 *control measures based on the effect individual control measures*  
35 *will have on public health, air quality, and emission reductions,*  
36 *and on the cost-effectiveness of each control measure.*

37 *(B) Strive to integrate the scheduling of control measures with*  
38 *the federal planning process for attainment of the federal ambient*  
39 *air quality standards for particulate matter in an efficient manner;*



1 to the extent that integration does not delay the adoption of control  
2 measures.

3 (3) An implementation schedule adopted by a district pursuant  
4 to this subdivision may not include a control measure that meets  
5 any of the following criteria:

6 (A) Has already been adopted by that district, or has scheduled  
7 for adoption within one year from the date on which the district  
8 proposed to implement the control measure.

9 (B) Is substantially similar to a proposed control measure, as  
10 determined by the state board.

11 (C) The district has determined there is a readily available,  
12 feasible, and cost-effective alternative control measure that will  
13 achieve an equivalent or greater emission reduction.

14 (4) If a district determines that a readily available, feasible,  
15 and cost-effective alternative control measure exists as described  
16 in subparagraph (C) of paragraph (3), the district shall adopt that  
17 measure.

18 (e) A district may exempt a stationary source of air pollution  
19 from a control measure required pursuant to this section if the  
20 district finds and determines that the source is already taking  
21 actions to achieve all readily available, feasible and cost-effective  
22 emission reductions for PM 2.5 and PM 10 pursuant to either of  
23 the following:

24 (1) A market-based incentive program that complies with  
25 Section 39616.

26 (2) An interchangeable emission reduction credit program that  
27 is consistent with the methodology adopted by the state board  
28 pursuant to Section 39607.5.

29 (f) Nothing in this section is intended to alter or affect either of  
30 the following:

31 (1) The authority of the state board or a district to adopt a  
32 control measure for PM 2.5 and PM 10 pursuant to this division.

33 (2) The authority of the state board or a district over  
34 diesel-powered engines established pursuant to this division.

35 ~~(e)~~

36 (g) In identifying control measures for woodstoves and  
37 fireplaces pursuant to ~~subparagraph (B) of paragraph (1) of~~  
38 ~~subdivision (a) paragraph (2) of subdivision (b),~~ the state board  
39 shall include a consideration of rules and regulations encouraging  
40 the use of wood fuel appliances that meet the standards established



1 in Subpart AAA of Part 60 of Title 40 of the Code of Federal  
2 Regulations.

3 SEC. 3. No reimbursement is required by this act pursuant to  
4 Section 6 of Article XIII B of the California Constitution for  
5 certain costs that may be incurred by a local agency or school  
6 district because in that regard this act creates a new crime or  
7 infraction, eliminates a crime or infraction, or changes the penalty  
8 for a crime or infraction, within the meaning of Section 17556 of  
9 the Government Code, or changes the definition of a crime within  
10 the meaning of Section 6 of Article XIII B of the California  
11 Constitution.

12 However, notwithstanding Section 17610 of the Government  
13 Code, if the Commission on State Mandates determines that this  
14 act contains other costs mandated by the state, reimbursement to  
15 local agencies and school districts for those costs shall be made  
16 pursuant to Part 7 (commencing with Section 17500) of Division  
17 4 of Title 2 of the Government Code. If the statewide cost of the  
18 claim for reimbursement does not exceed one million dollars  
19 (\$1,000,000), reimbursement shall be made from the State  
20 Mandates Claims Fund.

